

GOODWIN, PROCTER & HOAR

(A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS)

COUNSELLORS AT LAW

EXCHANGE PLACE

BOSTON, MASSACHUSETTS 02109-2881

TELEPHONE (617) 570-1000

TELECOPIER (617) 523-1231

TELEX 94-0640

CABLE GOODPROCT, BOSTON

RECORDATION NO. 16984 FILED 1425

AUG 30 1990 7:45 AM

INTERSTATE COMMERCE COMMISSION

August 29, 1990

RECORDATION NO. 16984 FILED 1425

AUG 30 1990 7:45 AM

INTERSTATE COMMERCE COMMISSION
0-2424011

Ms. Noreta R. McGee
Secretary
Interstate Commerce Commission
Twelfth Street and Constitution Avenue, N.W.
Washington, D.C. 20423

RECORDATION NO. 16984 FILED 1425

AUG 30 1990 7:45 AM

INTERSTATE COMMERCE COMMISSION

Dear Secretary:

I have enclosed two originals of the document described below, to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

This document is a Lease, a primary document, dated as of August 15, 1990.

The names and addresses of the parties to the document are as follows:

Lessor:

Massachusetts Bay Transportation Authority
Transportation Building
Ten Park Plaza
Boston, Massachusetts 02116

and

Lessee:

Shawmut Bank, N.A., as Trustee
One Federal Street
Boston, Massachusetts 02211

A description of the equipment covered by the document follows:

Ninety-seven (97) commuter rail passenger coaches (the "Equipment") manufactured by Bombardier Inc. (the "Manufacturer"), sold to Massachusetts Bay Transportation Authority ("MBTA"), and identified by the MBTA identification numbers (and AAR designations) and the Manufacturer's identification numbers set forth on Exhibit A hereto (which also contains a more particular description of the Equipment).

GOODWIN, PROCTER & HOAR

Secretary, Interstate Commerce Commission
August 29, 1990
Page 2

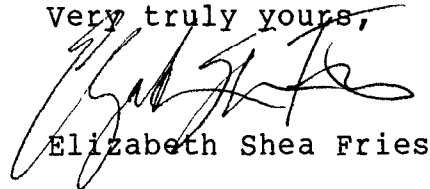
A fee of \$15.00 is enclosed. Please date stamp and return one original and any extra copies not needed by the Commission for recordation to the undersigned.

A short summary of the document to appear in the index follows:

Lease Agreement between Massachusetts
Bay Transportation Authority, Lessor, and
Shawmut Bank, N.A., Trustee and Lessee,
dated as of August 15, 1990, covering 97
Commuter Rail Passenger Coaches.

Please acknowledge receipt of this transmittal letter and its enclosures by appropriately stamping the enclosed copy of this letter and returning it to the undersigned in the addressed envelope enclosed for your convenience.

Very truly yours,



Elizabeth Shea Fries

Enclosures: Lease Agreement (with Schedules) - Two Notarized
Originals
Transmittal Letter (copy)
Check (\$15.00)
Return Envelope (Postage Prepaid)

Attachment: Exhibit A

YP-7647/M

EXHIBIT A

DESCRIPTION OF EQUIPMENT

The Equipment which is the subject of the Lease Agreement consists of ninety-seven (97) commuter rail passenger coaches manufactured by Bombardier Inc., and designed for push-pull operation in a train consisting of up to eleven cars. The cars are of two types: control trailer cars which are equipped with an enginemans's control compartment and blind trailer cars which are not equipped with controls. The control trailer car configuration permits control of the locomotive from the enginemans's control compartment which converts into a normal vestibule area when the locomotive is leading. Although the control trailer car will normally be located at the end of the train farthest from the locomotive, a control trailer can be placed in any position throughout the train, in which case it will function as a blind trailer car. Both the control trailer car and the blind trailer car have a total seating capacity of 122 passengers with a seating arrangement comprising 22 triple seats, 24 double seats, 1 bulkhead double seat, 1 double folding seat without wheelchair tiedown device, and 2 double folding seats with wheelchair tiedown device. The cars will be used by the MBTA in connection with its commuter rail service.

Each coach is more particularly described below:

	<u>MBTA</u> <u>IDENTIFICATION NUMBER</u>	<u>MANUFACTURER'S</u> <u>IDENTIFICATION NUMBER</u>
1.	600	399
2.	601	401
3.	602	403
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5.	604	407
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LESSOR'S
IDENTIFICATION NUMBER

MANUFACTURER'S
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Interstate Commerce Commission
Washington, D.C. 20423

8/30/90

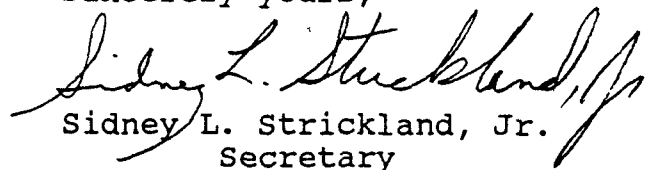
OFFICE OF THE SECRETARY

Elizabeth Shea Fries
Goodwin Procter & Hoar
Exchange Place
Boston MA. 02109-2881

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 8/30/90 at 9:45am , and assigned recordation number(s). 16984 16984-A & 16984-B

Sincerely yours,


Sidney L. Strickland, Jr.
Secretary

16984

RECORDATION NO. _____ FILED 1625

AUG 30 1990 10 45 AM

INTERSTATE COMMERCE COMMISSION

LEASE AGREEMENT

Dated as of August 15, 1990

by and between

MASSACHUSETTS BAY TRANSPORTATION AUTHORITY
Lessor

and

SHAWMUT BANK, N.A., not in its
individual capacity, but solely as Trustee
Lessee

97 Bombardier Commuter Rail Passenger Coaches

LEASE AGREEMENT

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THIS LEASE AGREEMENT dated as of August 15, 1990 is executed by and between MASSACHUSETTS BAY TRANSPORTATION AUTHORITY, a body corporate and politic existing under the laws of The Commonwealth of Massachusetts, as Lessor, and SHAWMUT BANK, N.A., a national banking association, not in its individual capacity, but solely as Trustee under the Equipment Trust Agreement, as Lessee.

W I T N E S S E T H:

WHEREAS, upon the terms and conditions and for the purposes set forth herein, Lessor proposes to lease the Equipment to Lessee and Lessee desires to lease the Equipment from Lessor; and

WHEREAS, Lessee has issued the Certificates to provide funds sufficient to pay the Advance Rental Cost hereunder and all expenses incurred in connection with the issuance of the Certificates; and

WHEREAS, concurrently with the execution of this Lease Agreement, Lessee has sold, issued and delivered to the initial purchasers thereof the Certificates and deposited the proceeds thereof in accordance with the provisions of the Equipment Trust Agreement;

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows:

ARTICLE I

DEFINITIONS

SECTION 1.1 Definitions. Capitalized terms and phrases used herein shall for all purposes of this Lease Agreement, including the preceding recitals, have the respective meanings specified therefor in Schedule X hereto unless the context clearly otherwise requires.

SECTION 1.2 Interpretations. All references in this instrument to designated "Articles," "Sections" and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and subdivisions of this instrument as originally executed. The words "hereof," "herein," "hereto," "hereby" and "hereunder" refer to this entire Lease Agreement. Words importing persons include firms, associations and corporations; all words importing the singular number include the plural number and vice versa; and all words importing the masculine gender include the feminine gender.

ARTICLE II

DEMISING CLAUSE

Lessor rents, leases and lets to Lessee, and Lessee rents, leases and hires from Lessor, for rentals and upon and subject to the terms and conditions herein set forth, the Equipment, for a term commencing on August 15, 1990 and ending on August 1, 2015, except as otherwise provided herein.

ARTICLE III

RENT

On the Closing Date, Lessee shall pay to Lessor rent in advance for the use of the Equipment equal to the Advance Rental Cost.

ARTICLE IV

QUIET ENJOYMENT

Lessor will not take any action, other than pursuant to Articles VI and VII hereof, to prevent Lessee from having quiet and peaceable possession and enjoyment of the Equipment during the Municipal Lease Term and will, at the request of Lessee and at Lessor's cost, cooperate with Lessee in order that Lessee may have quiet and peaceable possession and enjoyment of the Equipment.

ARTICLE V

ASSIGNMENT, SUBLEASING AND SELLING

SECTION 5.1 Covenant of Lessee. Lessee will sublease the Equipment to Lessor pursuant to the Municipal Sublease. Except for subleasing the Equipment to Lessor under the Municipal Sublease or as may otherwise be permitted hereunder or under Applicable Law and equitable provisions governing bankruptcy and the enforcement of creditors' rights generally, Lessee shall not assign this Lease Agreement nor sublease, sell, assign, transfer or convey the Equipment or its interest therein, as a whole or in part.

SECTION 5.2 Covenant of Lessor. Lessor will sublease the Equipment from Lessee pursuant to the Municipal Sublease. Without the express written consent of Lessee and of the Certificate Insurer (so long as the Certificate Insurer is not then in default under any of its payment obligations under the Certificate Insurance Policy), Lessor shall not assign this

Lease Agreement nor sell, assign, transfer or convey the Equipment or its interest therein, as a whole or in part.

ARTICLE VI

SUBSTITUTION, EVENT OF LOSS AND PREPAYMENT

An Item of Equipment that ceases to be "Equipment" for purposes of the Municipal Sublease pursuant to Section 7.3 of the Municipal Sublease shall also cease to be "Equipment" for purposes of this Lease Agreement. Any Substitute Equipment (as defined in the Municipal Sublease) that becomes an Item of Equipment for purposes of the Municipal Sublease pursuant to Section 7.3 of the Municipal Sublease shall also become an Item of Equipment for purposes of this Lease Agreement.

Upon the termination of the Municipal Sublease with respect to an Item of Equipment as a result of an Event of Loss described in Section 7.2 of the Municipal Sublease, this Lease Agreement shall also terminate with respect to such Item of Equipment. To the extent the obligations of Sublessee under the Municipal Sublease cease with respect to an Item of Equipment pursuant to Section 7.2 of the Municipal Sublease, the obligations of Lessee under this Lease Agreement shall also cease with respect to such Item of Equipment.

To the extent all Sublessor claims under the Municipal Sublease are released with respect to an Item of Equipment pursuant to Section 12.3 of the Municipal Sublease, this Lease Agreement shall terminate with respect to such Item of Equipment.

In the event any Part or Addition, pursuant to Section 6.3 or Section 6.4 of the Municipal Sublease, becomes subject to the terms of the Municipal Sublease, such Part or Addition shall also be subject to the terms of this Lease Agreement. In the event any Part or Addition, pursuant to Section 6.3 or Section 6.4 of the Municipal Sublease, ceases to be subject to the terms of the Municipal Sublease, such Part or Addition shall also cease to be subject to the terms of this Lease Agreement.

ARTICLE VII

TERMINATION OF LEASE AGREEMENT

This Lease Agreement shall terminate upon payment of all Rental Payments required by the Municipal Sublease. Upon the termination of this Lease Agreement pursuant to the preceding sentence, Lessee shall deliver to Lessor any instruments that may be reasonably requested by Lessor to evidence such termination and the relinquishment of all of Lessee's rights

and interests in the Equipment and in this Lease Agreement. This Lease Agreement shall also terminate upon the occurrence of an Event of Nonappropriation, or at the option of Lessee, upon the occurrence of a Municipal Sublease Event of Default, with the consent or at the direction of the Certificate Insurer (so long as the Certificate Insurer is not then in default under any of its payment obligations under the Certificate Insurance Policy). Upon the termination of this Lease Agreement pursuant to the preceding sentence, Lessor shall deliver to Lessee any instruments that may be reasonably requested by Lessee to evidence such termination and the relinquishment of all of Lessor's right, title and interests in the Equipment and in this Lease Agreement. Notwithstanding the previous sentences contained in this Article VII, this Lease Agreement shall not terminate (so long as the Certificate Insurer is not then in default under any of its payment obligations under the Certificate Insurance Policy) except upon the consent or at the direction of the Certificate Insurer. Notwithstanding any provision to the contrary contained herein, in the Municipal Sublease or in the Equipment Trust Agreement, any and all remedies available to either Lessor or Lessee upon the occurrence of a Municipal Sublease Event of Default or Event of Nonappropriation shall survive the termination of this Lease Agreement.

VIII

MISCELLANEOUS

SECTION 8.1 Notices. All notices, offers, instructions, acceptances, approvals, waivers, requests, demands and other communications required or permitted hereunder to be given to or made upon any party hereto or under any instrument, certificate or other document delivered in connection with the transactions described herein shall be considered as properly given (a) if delivered in person, (b) if sent by an overnight delivery service which provides signed acknowledgments of receipt, (c) if mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested or (d) if sent by telegram (with messenger delivery specified) or by telecopier and, in each such case, confirmed by telephone by the sender. Communications so mailed shall be effective upon the expiration of five (5) Business Days after deposit. Communications given in any other manner shall be effective upon receipt by the addressee; provided, however, that if any communication is tendered to an addressee and the delivery thereof is refused by such addressee, such communication shall be effective upon the tender. For the purposes of communications, the addresses of the parties shall be as set forth below; provided, however, that any party shall have the right to change its address for communications

hereunder to any other location by giving thirty (30) days notice to the other party in the manner set forth hereinabove. The initial addresses of the parties hereto are as follows:

If to Lessor:

Massachusetts Bay Transportation Authority
Transportation Building
Ten Park Plaza
Boston, Massachusetts 02116
Attn: Treasurer
Telecopier: (617) 722-5368

If to Lessee:

Shawmut Bank, N.A.
One Federal Street
Boston, Massachusetts 02211
Attn: Corporate Trust Administration
Telecopier: (617) 292-4289

If to the Certificate Insurer:

Financial Security Assurance Inc.
350 Park Avenue
New York, New York 10022-6022
Attn: Managing Director-Surveillance
Telecopier: (212) 688-3101

In all cases with a copy to:

Goodwin, Procter & Hoar
Exchange Place
Boston, Massachusetts 02109
Attn: F. Beirne Lovely, Jr., Esq.
Telecopier: (617) 523-1231

SECTION 8.2 Performance of Lessee. Lessee shall not be obligated to take any action or execute any instrument pursuant to any provision hereof (a) until it shall have been requested to do so by the Certificate Insurer (so long as the Certificate Insurer is not then in default under any of its payment obligations under the Certificate Insurance Policy) or, with the consent of the Certificate Insurer (so long as the Certificate Insurer is not then in default under any of its payment obligations under the Certificate Insurance Policy), by Lessor, and (b) until, with respect to the execution of any instrument, it shall have received the instrument to be executed, and, at Lessee's option, it shall have received from Lessor or the Certificate Insurer assurance satisfactory to Lessee that Lessee shall be reimbursed for its reasonable expenses incurred or to be incurred in connection with taking such action or executing such instrument.

SECTION 8.3 Binding Effect. This Lease Agreement shall inure to the benefit of Lessee, Lessor, the Certificate Insurer (so long as the Certificate Insurer is not then in default under any of its payment obligations under the Certificate Insurance Policy) and their respective successors and assigns, and shall be binding upon Lessee, Lessor and their respective successors and assigns, subject, however, to the limitations contained in Article V hereof.

SECTION 8.4 Amendments, Changes and Modifications. This Lease Agreement may not be amended, changed, modified, altered or terminated except in accordance with the applicable provisions of the Equipment Trust Agreement.

SECTION 8.5 Execution in Counterparts. This Lease Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 8.6 Applicable Law. This Lease Agreement shall be deemed to have been executed under seal, and shall be governed by and construed in accordance with the laws of The Commonwealth of Massachusetts.

SECTION 8.7 Captions. The captions or headings in this Lease Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provision, Article or Section of this Lease Agreement.

SECTION 8.8 Severability. If any provision of this Lease Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

SECTION 8.9 Further Assurances and Corrective Instruments. Lessee and Lessor, subject to the provisions of Article X of the Equipment Trust Agreement, will execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, from time to time, such amendments or supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Equipment hereby leased or intended so to be or for carrying out the intention of or facilitating the performance of this Lease Agreement.

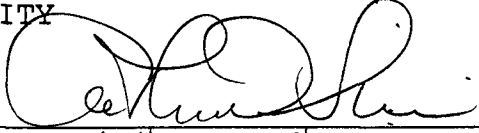
SECTION 8.10 The Certificate Insurer. Whenever the Certificate Insurer is given powers under this Lease Agreement or under any other Municipal Document, such powers shall be exercisable only so long as the Certificate Insurer is not then in default under any of its payment obligations under the Certificate Insurance Policy.

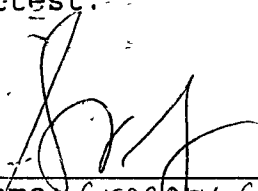
IN WITNESS WHEREOF, Lessor and Lessee have caused this Lease Agreement to be executed in their respective corporate names and their respective corporate seals to be hereunto affixed and attested by their duly authorized officers, all as of the day and year first above written.

MASSACHUSETTS BAY TRANSPORTATION
AUTHORITY

Attest:

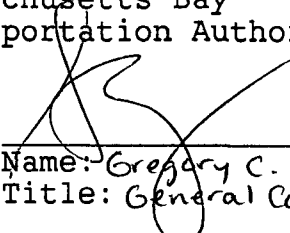
By:


Name: Arthur D. Shea
Title: Treasurer- Controller


Name: Gregory C. Flynn
Title: General Counsel

Approved as to form for
Massachusetts Bay
Transportation Authority


By:


Name: Gregory C. Flynn
Title: General Counsel

SHAWMUT BANK, N.A., not in its
individual capacity, but solely as
Trustee

Attest:

By:


Name: PAUL G. GRENIER
Title: ASSISTANT VICE PRESIDENT

By:


Name: NATALIE S. FORREST
Title: ASSISTANT VICE PRESIDENT

Commonwealth of Massachusetts)
) ss:
County of Suffolk)

On this 29th day of August, 1990 before me personally appeared PAUL G. GRENIER, to me personally known, who being by me duly sworn, says that he is the ASSISTANT VICE PRESIDENT of Shawmut Bank, N.A., that the seal affixed to the foregoing instrument is the corporate seal of said bank, that said instrument was signed and sealed on behalf of said bank by authority of its Board of Directors; and (s)he acknowledged that the execution of the foregoing instrument was the free act and deed of said bank.

Odette Marie Pothier
My Commission expires 7/11/97

Commonwealth of Massachusetts)
) ss:
County of Suffolk)

On this 29th day of August, 1990, before me personally appeared Arthur D. Shea, to me personally known, who being by me duly sworn, says that he is the Treasurer - Controller of Massachusetts Bay Transportation Authority, that the seal affixed to the foregoing instrument is the corporate seal of said authority, that said instrument was signed and sealed on behalf of said authority by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said authority.

Odette Marie Pothier
My Commission expires 7/11/97

SCHEDULE A
DESCRIPTION OF EQUIPMENT

[MUNICIPAL LEASE]

SCHEDULE "A" TO LEASE AGREEMENT

DESCRIPTION OF EQUIPMENT

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SCHEDULE X
DEFINITIONS

SCHEDULE X

Schedule X is an attachment to, and a part of, each of the following documents:

Municipal Lease Agreement
Municipal Sublease Agreement
Equipment Trust Agreement

SCHEDULE X

The following terms shall have the respective meanings set forth below:

"Accounts" means any accounts or subaccounts of any Fund.

"Act" means Chapter 161A of the General Laws of the Commonwealth, as amended.

"Actual Knowledge" means (a) with respect to MBTA, actual knowledge of its Chairman, General Manager, Treasurer-Controller or Director of Railroad Operations and (b) with respect to the ETA Trustee, actual knowledge of an Authorized Officer of the ETA Trustee. "Actual Knowledge" shall be deemed to exist following receipt of written notice of a fact, event, condition or other circumstance by any such Person.

"Additional Rent" means additional fees, expenses, reimbursements and other charges, including reasonable attorneys' fees, required to be paid by MBTA pursuant to the Equipment Trust Agreement, the Municipal Lease or the Municipal Sublease in connection with certain specified services relating to the Municipal Transaction.

"Additional Rent Account" means the account so designated as part of the Certificate Fund established pursuant to Section 4.1 of the Equipment Trust Agreement.

"Additions" has the meaning, with respect to any Item of Equipment, as specified in Section 6.4 of the Municipal Sublease.

"Advance Rental Cost" means \$82,441,896.

"Advisory Board" means the public body composed of representatives of each of the 78 cities and towns constituting the MBTA district as established by Section 7 of the Act.

"Applicable Law" means all applicable laws, treaties, judgments, decrees, injunctions, writs and other orders of any court, governmental agency or authority and rules, regulations, orders, directives, licenses and permits of any Governmental Authority.

"Appropriation" means, with respect to any Fiscal Period, (i) the approval by the Advisory Board, in accordance with Section 5(i) of the Act, of an itemized budget of MBTA in which all Rental Payments becoming due in the Fiscal Period are shown as current expense and (ii) failure of the Advisory Board to determine, as evidenced in its official records of its deliberations with respect to the approval of such budget, that such Rental Payments shall not be included as current expense in MBTA's budget for such Fiscal Period.

"Authorized Officer of MBTA" or "Authorized Officer of the Sublessee" means the Treasurer-Controller of MBTA or such other officer or person designated in writing by MBTA to the ETA Trustee.

"Authorized Officer of the Certificate Insurer" means any executive vice president or managing director of the Certificate Insurer or such other officer or person designated in writing by the Certificate Insurer to MBTA.

"Authorized Officer of the ETA Trustee" means any authorized officer of the ETA Trustee in its principal corporate trust office or any other officer or person designated in writing by the ETA Trustee to MBTA.

"Beneficial Owner" means the Person that is considered to be the beneficial owner of any Certificate pursuant to the arrangements for book entry determination of ownership applicable to DTC.

"Board" means the Board of Directors of MBTA.

"Board Resolution" or "Certified Resolution of MBTA" means a resolution of the Board certified by the Secretary or Assistant Secretary of MBTA to have been duly adopted by the Board and to be in full force and effect on the date of such certification.

"Business Day" means any day other than a Saturday or a Sunday or a day on which commercial banking institutions in the City of Boston, Massachusetts or the City of New York, New York are authorized by law to be closed. Any reference herein, or in the Municipal Documents to which this Schedule X relates, to "days" (unless Business Days are specified) shall mean calendar days.

"Certificate Fund" means the special trust fund of MBTA, created and established under Section 4.1 of the Equipment Trust Agreement and to be held and administered by the ETA Trustee as provided in Section 4.4 of the Equipment Trust Agreement.

"Certificate Insurance Policy" means the municipal bond insurance policy, as may be amended from time to time, issued by the Certificate Insurer guaranteeing the payment of Principal Components and Interest Components with respect to the Certificates.

"Certificate Insurer" means Financial Security Assurance Inc., a New York stock insurance company, or any successor thereto.

"Certificate Register" means the books of the ETA Trustee kept in the principal corporate trust office thereof for the registration, exchange and transfer of Certificates as further described in Section 2.4 of the Equipment Trust Agreement.

"Certificates" or "Certificates of Participation" means the Certificates of Participation prepared and delivered by the ETA Trustee pursuant to the Equipment Trust Agreement.

"Closing Date" means August 30, 1990 or such other date as shall be acceptable to MBTA and the ETA Trustee, which date shall be the date on which the terms of the lease referred to in the Municipal Lease and the Municipal Sublease shall commence.

"Code" means the Internal Revenue Code of 1986, as amended, and with respect to specific sections thereof, such reference shall be deemed to include the proposed (only until the final regulations are published and become effective) and final regulations promulgated under or applicable to such sections and any pronouncement of the Internal Revenue Service applicable to such sections that constitutes an "administrative pronouncement" as that term is described in Treasury Regulations Section 1.6661-3(b)(2).

"Commonwealth" means The Commonwealth of Massachusetts.

"Contract Assistance Provisions" has the meaning specified in Section 5.5 of the Municipal Sublease.

"Contract for Financial Assistance" means the Contract for Financial Assistance, dated as of August 15, 1990, by and between MBTA and the Commonwealth, with respect to the transactions contemplated by the Municipal Documents, as such agreement may from time to time be amended, modified or supplemented in accordance with the applicable provisions thereof.

"Corporate Base Rate" means the rate of interest per annum from time to time specified by SB at its main office as the corporate base rate, it being understood that such rate is a reference rate, and not necessarily the lowest rate, which serves as the basis upon which effective rates of interest are calculated for obligations making reference thereto.

"Cost", in connection with the acquisition by the ETA Trustee of a leasehold interest in the Equipment, means all expenses which are properly chargeable thereto under Generally Accepted Accounting Principles, and which are incidental to any financing under the Equipment Trust Agreement, including, without limiting the generality of the foregoing:

- (a) Advance Rental Cost;
- (b) Legal, accounting and other professional and advisory fees; and
- (c) Printing, engraving and other expenses of financing in connection with the issuance of the Certificates, including fees and expenses of the ETA Trustee but not including underwriters' discounts or placement agents' fees or similar compensation.

Whenever Costs are to be paid under the Equipment Trust Agreement, such payment may be made by way of reimbursement to the ETA Trustee or others who have paid the same.

"Cost of Issuance Account" means the account so designated as part of the Equipment Lease Fund and established pursuant to Section 4.1 of the Equipment Trust Agreement.

"Counsel" means any attorney-at-law or law firm satisfactory to the ETA Trustee; it being agreed that Goodwin, Procter & Hoar is satisfactory to the ETA Trustee.

"Dollars" or "\$" means lawful currency of the United States of America.

"DTC" means the Depository Trust Company, New York, New York, and its successor or any replacement securities depository appointed under the Equipment Trust Agreement.

"DTC Participant" means securities brokers or dealers, banks, trust companies, clearing corporations and various other entities that operate in conjunction with DTC (or any replacement securities depository) to provide securities depository services to the Beneficial Owners, some of which, or their representatives, own DTC.

"Eligible Investments" means and includes any of the following investments to the extent the same are then (a) Investment Grade and (b) legal investments for moneys held under the Equipment Trust Agreement under Applicable Law:

- (a) Government Securities;
- (b) Time Deposits;

(c) Participation units in Massachusetts Municipal Depository Trust, a combined investment fund created pursuant to Section 38A of Chapter 29 of the General Laws of the Commonwealth; and

(d) Any mutual fund the sole assets of which are Government Securities.

"Equipment" means the 97 commuter rail passenger coaches manufactured by the Manufacturer and sold to MBTA, the Manufacturer's identification numbers of which are specified on Schedule C to the Municipal Sublease, together with Parts and any Substitute Equipment.

"Equipment Account" means the account so designated as part of the Equipment Lease Fund and established pursuant to Section 4.1 of the Equipment Trust Agreement.

"Equipment Lease Fund" means the special trust fund of MBTA created and established under Section 4.1 of the Equipment Trust Agreement and to be held and administered by the ETA Trustee as provided in Section 4.5 of the Equipment Trust Agreement.

"Equipment Trust Agreement" means the Equipment Trust Agreement, dated as of August 15, 1990 by and between MBTA and SB, as such agreement may be amended, modified or supplemented from time to time in accordance with the applicable provisions thereof.

"ETA Trustee" or "Trustee" means SB, in its capacity as trustee pursuant to the Equipment Trust Agreement, or any duly appointed successor trustee.

"Event of Loss" means, with respect to any Item of Equipment, any of the following events with respect to such Item: (a) the loss of such Item or of the use thereof due to the destruction of, or damage beyond repair to, such Item which in the good faith and reasonable opinion of MBTA renders such Item permanently unfit for normal use by MBTA for any reason whatsoever, such determination to be made promptly after the occurrence of such event and to be evidenced by an Officer's Certificate of MBTA delivered to the ETA Trustee with a copy to the Certificate Insurer; (b) the loss of the use for 180 or more consecutive days of such Item due to wear or damage which in the good faith and reasonable opinion of MBTA cannot be repaired within a commercially reasonable period of time, such determination to be made promptly after the occurrence of such event and to be evidenced by an Officer's Certificate of MBTA delivered to the ETA Trustee with a copy to the Certificate Insurer; (c) any damage to such Item which results in an insurance settlement with respect to such Item on the basis of a total loss or a constructive or compromised total loss; (d)

the requisition of title to or the loss of title to such Item; (e) the confiscation, condemnation or seizure of, or the requisition for use of, such Item which shall have resulted in the loss of possession of such Item for 180 or more consecutive days; or (f) the theft or disappearance of such Item which shall have resulted in the loss of possession of such Item by MBTA for sixty (60) or more consecutive days.

"Event of Nonappropriation" means a failure by MBTA to make full payment of a Rental Payment on a Rental Payment Due Date during a Fiscal Period with respect to which an Appropriation has not occurred.

"Excess" means the sum of

(i) the excess of

(A) the aggregate amount earned on all Nonpurpose Investments (other than investments attributable to an excess described in this subparagraph) attributable to the Gross Proceeds of the Certificates, including those in the Certificate Fund and the Equipment Lease Fund, over

(B) the amount which would have been earned if such Nonpurpose Investments were invested at a rate equal to the yield (determined in accordance with the Rebate Provision) on the Certificates to which such Gross Proceeds are attributable, plus

(ii) any income attributable to the Excess described in subparagraph (i) above.

The amount of any calculated Excess shall be reduced by any payments made to the United States pursuant to Section 4.3(c) of the Equipment Trust Agreement. The terms "Nonpurpose Investment" and "Gross Proceeds" shall have the meanings given in the Rebate Provision. Earnings on amounts deposited in the Certificate Fund allocable to Certificates shall be excluded from the calculation of any Excess if the gross earnings on such amounts for the Rebate Year are less than \$100,000 (or a pro rata portion of \$100,000 in the case of a short Rebate Year for the Certificates).

"Fair Market Sales Value" shall have the meaning specified in Section 7.3 of the Municipal Sublease.

"Fiscal Period" means the period of time for which funds are periodically budgeted or appropriated to MBTA and during which MBTA may unconditionally dispose of such funds in accordance with its budget.

"Funds" means the Certificate Fund, the Equipment Lease Fund and the Rebate Fund.

"Generally Accepted Accounting Principles" means those accounting principles applicable in the preparation of financial statements, as promulgated from time to time by the Financial Accounting Standards Board or such other body recognized as authoritative by the American Institute of Certificate Public Accountants.

"Government Approvals" means all authorizations, consents, licenses, approvals, certificates, waivers, exceptions, orders, variances, filings, recordings and declarations of or with any Governmental Authority.

"Governmental Authority" means any nation or government, any state or other political subdivision thereof and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

"Government Securities" means direct obligations of, or obligations unconditionally guaranteed as to full and timely payment by, the United States of America.

"Independent" or "independent" means, with respect to a certified public accountant or an appraiser, a Person (a) who is not an officer or employee of MBTA and (b) which is not a partnership, corporation or association having a partner, director, officer, member or substantial stockholder who is an officer or employee of MBTA; provided, however, that the fact that such Person is retained regularly by or transacts business with MBTA shall not make such Person an employee within the meaning of this definition.

"Interest Account" means the account so designated as part of the Certificate Fund and established pursuant to Section 4.1 of the Equipment Trust Agreement.

"Interest Component" means that portion of a Rental Payment, or that portion of any payment in respect of a Certificate, designated as interest.

"Item" or "Item of" or "Item thereof" means each commuter rail passenger comprising a part of the Equipment.

"Interest Payment Date" means each February 1 and August 1, commencing on February 1, 1990.

"Investment Grade" means having a rating of A1 or higher by Moody's and AA or higher by S&P. If either Moody's or S&P shall for any reason no longer perform the functions of a securities rating agency, "Moody's" or "S&P", as the case may

be, shall be deemed to refer to any other nationally recognized securities rating agency designated by the ETA Trustee, with the consent of MBTA and the Certificate Insurer (so long as the Certificate Insurer is not then in default under any of its payment obligations under the Certificate Insurance Policy), and in such event "Investment Grade" shall mean the securities rating by such agency which is equivalent to A1 or higher by Moody's or AA or higher by S&P.

"Lessee" means, as used in the Municipal Lease, the ETA Trustee.

"Lessor" means, as used in the Municipal Lease, MBTA.

"Lessor Lien" or "Lessor Liens" means any Lien or disposition of title which results from a claim against or act of, or failure to act by, the ETA Trustee that is not a claim against or act of MBTA and either (a) results from claims against the ETA Trustee not related to the Municipal Transaction, (b) results from an affirmative act of the ETA Trustee, which is neither required nor permitted to be taken by the ETA Trustee pursuant to a provision of any Municipal Document nor consented to by MBTA nor taken as a result of the occurrence and continuance of a Municipal Sublease Event of Default as permitted under the Municipal Sublease, or (c) results from nonpayment by the ETA Trustee of any taxes imposed on such Person or the consolidated group of taxpayers of which such Person is a part which MBTA is not required to indemnify against pursuant to any of the Municipal Documents or is so required and has made such indemnification payment.

"Lien" means any mortgage, pledge, lien, charge, encumbrance, security interest or lease in the nature thereof (including any conditional sale agreement, equipment trust agreement or other title retention agreement) or the filing of, or agreement to give, any financing statement under the Applicable Law of any jurisdiction.

"Manufacturer" means Bombardier Inc., Rail Transit Division of Quebec, Canada, a company organized and existing under the laws of the Province of Quebec, Canada, and its successors and assigns.

"MBTA" means Massachusetts Bay Transportation Authority, a body politic and corporate and a political subdivision of the Commonwealth, and its successors.

"MBTA Investment Instructions" means the written investment instructions delivered to MBTA by Special Counsel, as amended or superseded from time to time.

"MBTA Power of Sale" means the power of sale granted to the ETA Trustee by MBTA in, and exercisable by the ETA Trustee or by or at the direction of the Certificate Insurer (so long as the Certificate Insurer is not then in default under any of its payment obligations under the Certificate Insurance Policy) in accordance with, Article XI of the Equipment Trust Agreement.

"Moody's" means Moody's Investors Service, Inc., a Delaware corporation, its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, "Moody's" shall be deemed to refer to any other nationally recognized securities rating agency designated by the ETA Trustee, with the consent of MBTA and the Certificate Insurer (so long as the Certificate Insurer is not then in default under any of its payment obligations under the Certificate Insurance Policy).

"Municipal Documents" means the Equipment Trust Agreement, the Municipal Lease, the Municipal Sublease, the Contract for Financial Assistance and other related documents in connection with the Municipal Transaction.

"Municipal Lease" means the Lease Agreement, dated as of August 15, 1990, by and between MBTA, as lessor, and the ETA Trustee, as lessee, as such agreement may from time to time be amended, modified or supplemented in accordance with the applicable provisions thereof.

"Municipal Lease Term" means the term of the Municipal Lease, as set forth in Article IV of the Municipal Lease, which term shall begin and end on the same days that the Municipal Sublease Term begins and ends.

"Municipal Sublease" means the Sublease Agreement, dated as of August 15, 1990, by and between the ETA Trustee, as sublessor, and MBTA, as sublessee, as such agreement may from time to time be amended, modified or supplemented in accordance with the applicable provisions thereof.

"Municipal Sublease Default" means an event or condition which, with the giving of notice or lapse of time or both, would constitute a Municipal Sublease Event of Default.

"Municipal Sublease Event of Default" shall have the meaning specified in Section 11.1 of the Municipal Sublease.

"Municipal Sublease Stipulated Loss Value" as of any Municipal Sublease Stipulated Loss Value Date during the Municipal Sublease Term means, with respect to any Item of Equipment, an amount determined by multiplying the Sublessor's Cost thereof by the percentage specified in Schedule B to the

Municipal Sublease opposite the Municipal Sublease Stipulated Loss Value Date with respect to which the amount is determined.

"Municipal Sublease Stipulated Loss Value Date" means each date set forth on Schedule B to the Municipal Sublease.

"Municipal Sublease Term" means the term of the Municipal Sublease, as set forth in Section 3.1 of the Municipal Sublease.

"Municipal Transaction" means the manufacture, purchase, ownership, financing, leasing, operation, maintenance, storage, return and disposition of the Equipment as described and contemplated by the Municipal Documents.

"Obsolete Parts" has the meaning specified in Section 6.4 of the Municipal Sublease.

"Officer's Certificate" means (a) with respect to MBTA, a certificate executed on behalf of MBTA by its duly authorized Chairman, General Manager, Treasurer-Controller or General Counsel (or by any duly authorized person holding any such office in an "Acting" capacity), signing alone, and (b) with respect to the ETA Trustee, a certificate executed on behalf of the ETA Trustee by an Authorized Officer of the ETA Trustee.

"Outstanding" in connection with the Certificates means, as of the time in question, all Certificates executed and delivered under the Equipment Trust Agreement, except:

(a) Certificates theretofore cancelled or required to be cancelled thereunder;

(b) Certificates for which the necessary amount for the payment or redemption thereof shall have been or shall concurrently be deposited with the ETA Trustee other than by the Certificate Insurer; provided, that if such Certificates are being redeemed prior to maturity, the required notice of redemption shall have been given or provisions satisfactory to the ETA Trustee shall have been made therefor; and

(c) Certificates in substitution for which other Certificates have been executed and delivered pursuant to Article II of the Equipment Trust Agreement.

In determining whether the Owners of a requisite aggregate principal amount of Certificates Outstanding have concurred in any request, demand, authorization, direction, notice, consent or waiver under the provisions of the Equipment Trust Agreement, unless all Certificates Outstanding are so held, Certificates which are owned by or on behalf of MBTA or any Person controlling, controlled by or under common control with

MBTA shall be disregarded for the purpose of any such determination.

"Owner" or "Certificate Owner" means the registered owner of a Certificate.

"Parts" means all appliances, parts, instruments, appurtenances, accessories, furnishings and other equipment of whatever nature so long as the same shall be incorporated or installed in or attached to any Item of Equipment or so long as the ETA Trustee retains a leasehold interest therein in accordance with Section 6.3 or 6.4 of the Municipal Sublease after removal from such Item prior to the expiration or termination of the Municipal Sublease.

"Permitted Liens" means (a) the rights of the ETA Trustee in and to the Equipment pursuant to the Equipment Trust Agreement, the Municipal Lease and the Municipal Sublease, (b) the subordinate rights of others under agreements or arrangements to the extent expressly permitted by the terms of Section 10.1 of the Municipal Sublease, (c) Lessor Liens, (d) Liens for taxes, assessments, charges or other governmental levies either not yet due or being contested in good faith by appropriate proceedings promptly initiated and diligently prosecuted, but only so long as (i) such proceedings do not involve any material danger of the sale, forfeiture or loss of any Item of Equipment, or any interest therein, and (ii) adequate reserves are maintained in accordance with applicable accounting principles with respect to such Liens, (e) materialmen's, mechanics', carriers', workmen's, repairmen's, employees', or other like Liens arising in the ordinary course of business for amounts the payment of which is not overdue for a period in excess of thirty (30) days or are being contested in good faith by appropriate proceedings promptly initiated and diligently prosecuted but only so long as (i) such proceedings do not involve any danger of the sale, forfeiture or loss of any such Item, or any interest therein and (ii) adequate reserves are maintained in accordance with applicable accounting principles with respect to such Liens, and (f) Liens arising out of judgments or awards against MBTA with respect to which an appeal or proceeding for review is being diligently prosecuted in good faith and with respect to which a stay of execution shall have been secured or an appeal bond shall have been filed pending such appeal or proceeding for review but only so long as (i) such proceedings do not involve any danger of the sale, forfeiture or loss of any such Item, or any interest therein, and (ii) adequate reserves are maintained in accordance with applicable accounting principles with respect to such judgments or awards.

"Person" means an individual, a corporation, a partnership, an unincorporated organization, an association, a joint stock

company, a joint venture, a trust, an estate, a government or any agency or political subdivision thereof or any other entity.

"Principal Account" means the account so designated as part of the Certificate Fund and established pursuant to Section 4.1 of the Equipment Trust Agreement.

"Principal Component" means that portion of a Rental Payment, or that portion of any payment in respect of a Certificate, designated as principal.

"Principal Payment Date" means each August 1, commencing August 1, 1991.

"Rebate Fund" means the special trust fund of MBTA created and established under Section 4.1 of the Equipment Trust Agreement and to be held and administered by the ETA Trustee as provided in Section 4.3 of the Equipment Trust Agreement.

"Rebate Instructions" means written instructions delivered to MBTA by Special Counsel for compliance with the Rebate Provision, compliance with which, in the opinion of Special Counsel, is necessary to and will result in compliance with the Rebate Provision.

"Rebate Provision" means Section 148(f) of the Code and Treasury Regulations effective or proposed thereunder.

"Rebate Year" means each one year period (or shorter period from the date of issuance of the Certificates) ending on July 31.

"Record Date" means with respect to each Interest Payment Date, the fifteenth (15th) day of the calendar month preceding the month during which such Interest Payment Date occurs.

"Redemption Date" means the date specified by the ETA Trustee in a redemption notice to Certificate Owners as the date on which one or more Certificates will be redeemed.

"Rental Payment Due Date" means each February 1 and August 1 during the Municipal Sublease Term, commencing February 1, 1991.

"Rental Payments" means the amounts payable by MBTA as rent for the use of the Equipment pursuant to Section 4.2 of the Municipal Sublease.

"S&P" means Standard & Poor's Corporation, a New York corporation, its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, "S&P"

shall be deemed to refer to any other nationally recognized securities rating agency designated by the ETA Trustee, with the consent of MBTA and the Certificate Insurer (so long as the Certificate Insurer is not then in default under any of its payment obligations under the Certificate Insurance Policy).

"SB" means Shawmut Bank, N.A., a national banking association, in its individual capacity.

"Securities Act" means the Securities Act of 1933, as may be amended from time to time, and the rules and regulations promulgated thereunder.

"Special Counsel" means Goodwin, Procter & Hoar, or any successor thereto that is a nationally recognized bond counsel and expert on tax matters, or if there be no successor, Counsel.

"Sublessee", as used in the Municipal Sublease, means MBTA.

"Sublessor", as used in the Municipal Sublease, means the ETA Trustee.

"Sublessor's Cost" as of any date means, with respect to any Item of Equipment, the amount listed opposite the Manufacturer's Identification Number therefor in Schedule C to the Municipal Sublease under the heading "Sublessor's Cost."

"Substitute Equipment" has the meaning specified in Section 7.3 of the Municipal Sublease.

"Tax" means any and all fees (including, without limitation, documentation, license, recording, filing and registration fees), taxes (including, without limitation, income, franchise, gross receipts, value added, turnover, sales, use, property (tangible and intangible), stamp and excise taxes), levies, assessments, imposts, duties, charges or withholdings of any nature whatsoever, as now or hereafter existing, imposed by any jurisdiction or taxing authority or other Governmental Authority, including, without limitation, the United States of America and the Commonwealth, together with any and all penalties, fines, additions to and tax and interest thereon.

"Time Deposits" means and includes negotiable or non-negotiable certificates of deposit or time deposits issued by any national bank, savings bank, banking company or trust company (including SB and any banks affiliated with SB), provided such issuing institution has long-term obligations rated at least A3 from Moody's and at least A- from S&P.

"Trustee" or "ETA Trustee" means SB, in its capacity as trustee pursuant to the Equipment Trust Agreement, or any duly appointed successor trustee.

"Trustee Investment Instructions" means the written investment instructions delivered to the ETA Trustee by an Authorized Officer of MBTA on or prior to the Closing Date, as amended or superseded from time to time.

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